

PATENT MAINTENANCE
DIVISION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

2003 NOV 18 AM 11:37

#121 Reg for
Refund

11-24-03

Applicant : Michael Fabry
Serial No. : 09/757,338
Filed : January 9, 2001
Title : VEHICLE ELECTROACOUSTICAL TRANSDUCING

Art Unit : 2644
Examiner : MinJin OH Harkey TRADEMARK
OFFICE

Attn: Office of Finance, Refund Section
Hon. Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR REFUND

On or about October 7, 2003, Applicants paid the required fees for Petition for Revival of an Application for Patent Abandoned Unavoidably by way of an enclosed check. On November 10, 2003, the decision of the Office of Petitions (copy attached) stated that the application is not deemed abandoned for failure to follow MPEP 707.13, and the petitioner may request a refund of the \$110 petition fee. Applicants respectfully request that the petition fee of \$110 be refunded to Fish & Richardson's Deposit Account No. 06-1050 as a credit for Order No. 02103-399001.

Respectfully submitted,

FISH & RICHARDSON P.C.

NOV 13 2003

Date:

Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110-2804
Telephone: (617) 542-5070
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20755040.doc

Charles Hieken
Charles Hieken
Reg. No. 18,411

CERTIFICATE OF MAILING OR TRANSMISSION

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Fish and Richardson
225 Franklin Street
Boston, MA 02110

NOV 12 2003

**FISH & RICHARDSON, P.C.
BOSTON OFFICE**

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OFFICE OF PETITIONS

In re Application of :
Michael Fabry :
Application No. 09/757,338 :
Filed: January 9, 2001 :
Attorney Docket No. 02103-399001 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed October 9, 2003, which is being treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181.

The petition is **GRANTED**.

Petitioner states that the non-final Office action, which was mailed on February 14, 2003, was not received. A review of the application file discloses that the Office action was properly addressed to petitioner, but was returned to the USPTO for an unknown reason. As such, the correspondence did not, in fact, reach petitioner.

MPEP 707.13 states:

"Office actions are sometimes returned to the Office because the United States Postal Service has not been able to deliver them. The examiner should use every reasonable means to ascertain the correct address and forward the action again, after stamping it "remailed" with the date thereof and redirecting it if there is any reason to believe that the action would reach applicant at such new address. If the Office action was mailed to an attorney, a letter may be written to the inventor or assignee informing him or her of the returned action. The period running against the application begins with the date of the remailing. *Ex parte Gourloff*, 1924 C.D. 153, 329 O.G. 536 (Comm'r Pat. 1924)."

* No Docketing Required *	
Reviewed By Practice Systems	
Initials:	JMG
Reviewed By Billing Secretary	
Initials:	

In view thereof, the appropriate procedure in the instant application was for the Office to remail the Office action restarting the period for reply. Since the Office action was not remailed following the procedure outlined in MPEP 707.13, this application is not deemed abandoned for failure to reply to the non-final rejection.

Accordingly, petitioner may request a refund of the \$110 petition fee by writing to the Office of Finance, Refund Section. A copy of this decision should accompany such a request.

The application file is being forwarded to Technology Center 2600 for further examination.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

Marianne E. Morgan
Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Examination Policy